

Regular Session, 2010

HOUSE BILL NO. 277

BY REPRESENTATIVE SAM JONES

DISTRICTS/SPECIAL: Creates the St. Mary Hydroelectric Authority

1 AN ACT

2 To enact Chapter 10-E of Title 33 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 33:4550.1 through 4550.12, relative to St. Mary Parish; to create  
4 and provide for the St. Mary Hydroelectric Authority as a political subdivision  
5 within such parish; to provide for the boundaries, governance, and powers and duties  
6 of the district; to provide for district funding, including the issuance of bonds and the  
7 use of district funds; and to provide for related matters.

8 Notice of intention to introduce this Act has been published  
9 as provided by Article III, Section 13 of the Constitution of  
10 Louisiana.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Chapter 10-E of Title 33 of the Louisiana Revised Statutes of 1950,  
13 comprised of R.S. 33:4550.1 through 4550.12, is hereby enacted to read as follows:

14 CHAPTER 10-E. ST. MARY HYDROELECTRIC AUTHORITY

15 §4550.1. Creation

16 All the territory in the parish of St. Mary lying within the watershed of the  
17 Wax Lake Outlet and the Atchafalaya River and their tributaries, shall be embraced  
18 in the limits of and shall constitute a district to be known as the St. Mary  
19 Hydroelectric Authority, referred to in this Section as the "district".

1        §4550.2. Board of commissioners

2            A. The governing authority of the district shall be vested in a board of  
3        commissioners, referred to in this Chapter as the "board", composed as follows:

4            (1) The state representative who represents House District No. 50, or his  
5        designee.

6            (2) The state representative who represents House District No. 51, or his  
7        designee.

8            (3) The state senator who represents Senate District No. 21, or his designee.

9            (4) The president of St. Mary Parish shall appoint two members subject to  
10       the approval of the parish governing authority.

11          (5) The mayor of the town of Baldwin shall appoint one member subject to  
12       the approval of the municipal governing authority.

13          (6) The mayor of the town of Berwick shall appoint one member subject to  
14       the approval of the municipal governing authority.

15          (7) The mayor of the city of Franklin shall appoint one member subject to  
16       the approval of the municipal governing authority.

17          (8) The mayor of the city of Morgan City shall appoint one member subject  
18       to the approval of the municipal governing authority.

19          (9) The mayor of the city of Patterson shall appoint one member subject to  
20       the approval of the municipal governing authority.

21          (10) The chief of the sovereign nation of the Chitimacha Tribe of Louisiana  
22       shall appoint one member subject to the approval of the tribal council, or one  
23       member shall be appointed pursuant to any method determined by the tribal council.

24          B.(1) The members serving pursuant to Paragraphs (A)(4) through (10) of  
25       this Section shall serve four-year terms after serving initial terms as follows: two  
26       members shall serve an initial term of one year; two shall serve two years; two shall  
27       serve three years; and two shall serve four years as determined by lot at the first  
28       meeting of the board.

1           (2) Each member serving pursuant to Paragraphs (A)(1) through (3) of this  
2           Section shall serve during his term of office. Each designee shall serve at the  
3           pleasure of the designating authority.

4           C. Six members of the board shall constitute a quorum for the transaction of  
5           business.

6           D. Any vacancy which occurs prior to the expiration of the term for which  
7           a member of the board has been appointed shall be filled for the remainder of the  
8           unexpired term in the same manner as the original appointment.

9           E. The board shall fix a time and place for the holding of its regular meetings  
10          and shall hold at least one regular meeting in each calendar month. Special meetings  
11          may be held upon call of the chairman or four members of the board at such time and  
12          place as may be designated, after written notification to the full membership. The  
13          board shall hold no more than two special meetings during one calendar year.

14          F. Each member of the board shall serve without compensation but shall be  
15          entitled to be reimbursed for expenses actually incurred in attending meetings of the  
16          board or its committees, or in the transaction of any business of the authority, when  
17          such business has been authorized by the board.

18          G. The board shall elect from its members a chairman, a vice chairman, and  
19          such other officers as it may deem necessary. The board shall also select a secretary  
20          and a treasurer, or a secretary-treasurer who need not be members of the board. The  
21          duties of the officers shall be fixed by the bylaws adopted by the board; however, it  
22          shall be the duty of the secretary to preserve a record of all business transacted by  
23          the board and to perform such other duties as the board may designate. The board  
24          may fix the compensation of any secretary or treasurer who is not a member of the  
25          board.

26          H. The board shall adopt such bylaws and rules and regulations for the  
27          orderly transaction of its business and affairs as it may deem fit. It may appoint and  
28          retain all employees it may consider desirable, including engineers and attorneys  
29          specifically including but not limited to a special counsel who shall be charged with

1 negotiating and renegotiating contracts dealing with fees paid to the district for  
2 goods or services and any other duties the board may assign. The board may appoint  
3 a general manager, experienced in the field of electrical generation, management, or  
4 sales as well as personnel, budgetary, and other administrative fields and may  
5 provide that all or certain classes of employees shall be employed and discharged by  
6 the general manager.

7 §4550.3. Status; suits; process; exemption from taxation

8 A. The district is hereby declared to be a political subdivision of the state of  
9 Louisiana as defined in the Constitution of Louisiana and an agency and  
10 instrumentality of the state of Louisiana required by the public convenience and  
11 necessity for the carrying out of the functions of the state, and to be a corporation  
12 and body politic and corporate, with power of perpetual succession, invested with  
13 all powers, privileges, rights, and immunities conferred by law upon other  
14 corporations of like character, including but not limited to port authorities, port  
15 commissions, and port, harbor, and terminal districts within the state.

16 B. The district shall not have the power to levy taxes, but it may assess and  
17 collect charges, fees, and rentals for the use of its properties and facilities and for the  
18 construction, installation, maintenance, and operation of any property or facility  
19 owned by it or in which it has an interest only for the purpose of and directly related  
20 to generating or transmitting hydroelectric power. The district shall have and  
21 possess the authority to sue and be sued. All legal process shall be served upon the  
22 chairman of the board.

23 C. The domicile of the district shall be within St. Mary Parish.

24 D. The district, in carrying out the purposes of this Chapter, shall be  
25 performing an essential public function of the state of Louisiana and shall not be  
26 required to pay any tax or assessment on its properties or any part thereof, nor to pay  
27 any excise, license, or other tax or imposition on its operating revenues, and the  
28 bonds issued pursuant to this Chapter and their transfer and the income therefrom  
29 shall at all times be exempt from taxation within the state.

1           E. The district is deemed not to be an instrumentality of the state for  
2           purposes of Article X, Section 1(A) of the Constitution of Louisiana.

3           §4550.4. Powers

4           A. The district's power, authority, and jurisdiction shall be limited to the  
5           geographical boundaries of the parish of St. Mary, and all actions of the district shall  
6           be solely for the purpose of generating or transmitting hydroelectric power. The  
7           district shall have the power:

8                   (1) To have a corporate seal.

9                   (2) To acquire by purchase, gift, devise, lease, expropriation, or other mode  
10                  of acquisition, to hold, pledge, encumber, lease, and dispose of immovable and  
11                  movable property of every kind within its territorial jurisdiction, whether or not  
12                  subject to mortgage or any other lien.

13                  (3) To make and enter into contracts, conveyances, mortgages, deeds or  
14                  trusts, bonds, and leases in the carrying out of its corporate objectives, including but  
15                  not limited to contracts for the legal services of a special counsel.

16                  (4) To let contracts for the construction or acquisition in any other manner  
17                  of property and facilities incident to the carrying out of the corporate purposes of the  
18                  district, which contracts shall be let as otherwise provided by law.

19                  (5) To incur debts and borrow money, but no debt so incurred shall be  
20                  payable from any source other than the revenues to be derived by the district from  
21                  sources other than taxation.

22                  (6) To fix, maintain, collect, and revise rates, charges, and rentals for the  
23                  facilities of the district and the services rendered thereby, including but not limited  
24                  to all charges for services and goods provided by or through the Wax Lake Outlet  
25                  and the Atchafalaya River.

26                  (7) To pledge all or any part of its revenues.

27                  (8) To enter into agreements of any nature with any person, corporation,  
28                  association, or other entity, including public corporations, political subdivisions,

1 municipalities, and federal and state agencies and instrumentalities of every kind, for  
2 the operation of all or any part of the properties and facilities of the district.

3 (9) To control in order to utilize and distribute the waters of the rivers and  
4 streams of the Wax Lake Outlet and the Atchafalaya River watershed, including but  
5 not limited to all waters flowing through the Wax Lake Outlet and the Atchafalaya  
6 River; and in addition to all of the aforementioned powers for the beneficial  
7 utilization of water resources, to control and employ such waters of the Wax Lake  
8 Outlet and the Atchafalaya River and its tributaries in the state of Louisiana,  
9 including the storm and flood waters thereof, as set forth in this Paragraph:

10 (a) To provide through practical and legal means for the use and  
11 coordination of the regulation of the waters of the Wax Lake Outlet and the  
12 Atchafalaya River and its tributaries.

13 (b) To provide by adequate organization and administration for the  
14 preservation of the equitable rights of the people of the different sections of the  
15 watershed area in the beneficial use of the waters of the Wax Lake Outlet and the  
16 Atchafalaya River and its tributaries.

17 (c) For the equitable distribution of such waters to the regional potential  
18 requirements for all uses including hydroelectric, domestic, municipal, maritime,  
19 port, and manufacturing, provided that no generating capacity, structures, or facilities  
20 other than hydroelectric shall be installed by the district. The district shall have no  
21 power to construct, own, or lease any electric transmission or distribution lines;  
22 however, the district may construct, own, or lease transmission lines in order to make  
23 electrical power generated by the district available for purchase through a connection  
24 to transmission lines of an electrical system purchasing electric power from the  
25 district.

26 (10) To utilize the waters of the Wax Lake Outlet and the Atchafalaya River  
27 for the generation of electric power, to sell the use of the water of such waterways  
28 for the production of electric power, to provide or furnish power and to that end to

1 construct, maintain, operate, or lease any or all hydroelectric generating facilities  
2 within its territorial jurisdiction useful for such purpose.

3 (11) To purchase or construct all works and facilities necessary or  
4 convenient to the exercise of the powers provided in this Section and to accomplish  
5 the purposes specified in this Chapter, and to purchase or otherwise acquire, within  
6 its territorial jurisdiction all immovable and movable property necessary or  
7 convenient for carrying out such purposes.

8 (12) To enter into any and all contracts and other agreements with any  
9 person, any public or private entity, any government or governmental agency,  
10 including the United States of America, the state of Louisiana, and the agencies,  
11 departments, and political subdivisions thereof, which contracts and other  
12 agreements may provide for the sale and utilization of the hydroelectricity generated.

13 B. Title to all property acquired by the district shall be taken in its corporate  
14 name and shall be held by it as an instrumentality of the state of Louisiana. The  
15 district shall have and be recognized to exercise such authority and power of control  
16 and regulation over the waters of the Wax Lake Outlet and the Atchafalaya River and  
17 its tributaries as may be exercised by the state of Louisiana, subject to the provisions  
18 of the Constitution of Louisiana.

19 C. Nothing in this Chapter is intended to restrict the use of water from the  
20 Wax Lake Outlet or the Atchafalaya River or outside of St. Mary Parish for any  
21 reason other than hydroelectric power generation; however, during any time period  
22 that the district restricts the use of water within the parish for electric generation or  
23 is prevented from generating electricity, the utility shall not pay the district for power  
24 that it was prevented from generating.

25 §4550.5. Cooperation with federal and state agencies

26 The board may cooperate with the government of the United States and may  
27 contribute financially to the expense of such improvement projects as are or may be  
28 authorized or adopted by the United States; it may also cooperate with all agencies,  
29 departments, and subdivisions of the state of Louisiana in all undertakings, the

1 purpose of which shall be the furtherance of the objects and purposes for which the  
2 district is created, and the authority to cooperate with any such agency of the state  
3 or federal government shall include the authority to contract with any such agency  
4 and to accept any grant or gratuity made for any of the purposes of this Chapter.

5 §4550.6. Authority of state agencies to cooperate; construction of facilities

6 A. There is hereby expressly conferred upon the state of Louisiana, its  
7 departments, and agencies and upon the political subdivisions of the state, the  
8 authority to cooperate with the board to make contributions or grants to the district  
9 for any of the purposes of this Chapter and to enter into contracts and agreements  
10 with the district in furtherance of any of the purposes of this Chapter.

11 B. The district may locate, construct, operate, and maintain any of its works  
12 or facilities over, under, through, in, or along any of the lands which are the property  
13 of the state or of any subdivision, institution, agency, or instrumentality thereof,  
14 within its territorial jurisdiction provided that a cooperative endeavor is agreed to  
15 and executed between the district and the appropriate state entity.

16 C.(1) The district and its authorized agents and employees may have the  
17 privilege of entering upon any lands, waters, and premises in the state for the purpose  
18 of making surveys, soundings, drillings, examinations, and appraisals as it may deem  
19 necessary or convenient for the purpose of this Chapter.

20 (2) The district shall make reimbursement for any actual damages resulting  
21 to such lands, waters, or premises as a result of such activities.

22 §4550.7. Bonds

23 A.(1) For the purpose of providing funds for the acquisition, by purchase,  
24 construction or otherwise, of any property or facilities which the district is authorized  
25 to acquire pursuant to this Chapter, including the acquisition of water rights, and for  
26 extending and improving any such property and facilities, the district may incur debt  
27 and issue revenue bonds to be secured by the fees, assessments, or any revenues  
28 collected by the district for the purposes of the district. There may be included in the  
29 amount of any such bond issue reasonable allowance for legal, engineering, and

1 fiscal services, interest during construction and for one year after the estimated date  
2 of completion of construction, and other expenses in connection with the  
3 authorization and issuance of the bonds and the acquisition or construction of the  
4 improvements.

5 (2) Revenue bonds of the district shall be issued in the manner as provided  
6 in Part XII or Part XIII of Chapter 4 of Subtitle II of Title 39 of the Louisiana  
7 Revised Statutes of 1950 or any other applicable law. Revenue bonds issued under  
8 this Section shall be authorized by resolution of the district and shall be limited  
9 obligations of the district, the principal of and interest on which shall be payable  
10 solely from the revenues as provided in Paragraph (1) of this Subsection or from  
11 income and revenue derived from the sale, lease, or other disposition of the project  
12 or facility to be financed by the bonds, from the income and revenue derived from  
13 the sale, lease, or other disposition of any existing project or facility acquired,  
14 constructed, and improved under the provisions of this Section, or from any other  
15 income or revenue derived from any project or facility so financed or any such  
16 existing project or facility; however, in the discretion of the district, the bonds may  
17 be additionally secured by mortgage or other security device covering all or part of  
18 the project from which the revenues so pledged may be derived. Any refunding  
19 bonds issued pursuant to this Subsection shall be payable from any source described  
20 above or from the investment of any of the proceeds of the refunding bonds  
21 authorized under this Section and shall not constitute an indebtedness or pledge of  
22 the general credit of the district within the meaning of any constitutional or statutory  
23 limitation of indebtedness and shall contain a recital to that effect. Bonds of the  
24 district shall be issued in such form, shall be in such denominations, shall bear  
25 interest, shall mature in such manner, and shall be executed as provided in the  
26 resolution authorizing the issuance thereof. The bonds may be subject to redemption  
27 at the option of and in the manner determined by the board in the resolution  
28 authorizing the issuance thereof.

1           (3) The district may in its own name and behalf borrow from time to time in  
2           the form of certificates of indebtedness. The certificates shall be secured by the  
3           dedication and pledge of monies of the district derived from any lawful sources,  
4           including those revenues as provided in Paragraph (1) of this Subsection and any  
5           other sources of income or revenue of the district, or any combination of such  
6           sources, provided that the term of such certificates shall not exceed ten years, and the  
7           annual debt service on the amount borrowed shall not exceed the anticipated  
8           revenues to be dedicated and pledged to the payment of the certificates of  
9           indebtedness, as shall be estimated by the board of the district at the time of the  
10           adoption of the resolution authorizing the issuance of such certificates. The estimate  
11           of the board referred to in the authorizing resolution shall be conclusive for all  
12           purposes of this Section.

13           (4) Bonds, certificates, or other evidences of indebtedness issued by the  
14           district pursuant to this Section are deemed to be securities of public entities within  
15           the meaning of Chapters 13 and 13-A of Title 39 of the Louisiana Revised Statutes  
16           of 1950, and shall be subject to defeasance in accordance with the provisions of  
17           Chapter 14 of Title 39 of the Louisiana Revised Statutes of 1950, and may be  
18           refunded in accordance with the provisions of Chapters 14-A and 15 of Title 39 of  
19           the Louisiana Revised Statutes of 1950, and may also be issued as short-term  
20           revenue notes of a public entity under Chapter 15-A of Title 39 of the Louisiana  
21           Revised Statutes of 1950.

22           (5) The issuance and sale of bonds, certificates of indebtedness, notes, or  
23           other evidence of debt by the district shall be subject to approval by the State Bond  
24           Commission.

25           (6) Any resolution authorizing the issuance of bonds pursuant to this Chapter  
26           may contain covenants, including but not limited to:

27           (a) The purpose or purposes to which the proceeds of the sale of the bonds  
28           may be applied and the deposit, use, and disposition thereof.

1           **(b) The use, deposit, securing of deposits, and disposition of the revenues of**  
2           **the district, including the creation and maintenance of reserves.**

3           **(c) The issuance of additional obligations payable from the revenues of the**  
4           **district.**

5           **(d) The operation and maintenance of the properties of the district.**

6           **(e) The insurance to be carried thereon and the use, deposit, and disposition**  
7           **of insurance monies.**

8           **(f) The books of account and records and the inspection and audit thereof**  
9           **and the accounting methods of the district.**

10           **(g) The non-rendering of any free service by the district.**

11           **(h) The preservation of the properties of the district free from any mortgage,**  
12           **sale, lease, or other encumbrance not specifically permitted by the terms of the**  
13           **resolution.**

14           **(i) The appointment and the powers and duties of any trustee who may be**  
15           **named in such resolution for the purpose of carrying out functions designed to**  
16           **safeguard the security of such bonds.**

17           **(7) While any bonds are outstanding under this Section, it shall be the duty**  
18           **of the board to fix and from time to time to revise the rates of compensation for all**  
19           **commodities and services sold or rendered by the district which will be fully**  
20           **adequate to pay the expenses of operating and maintaining the district and its**  
21           **properties, to pay principal of and interest on its obligations promptly as principal**  
22           **and interest fall due, and to carry out all of the provisions and covenants of the**  
23           **resolution or resolutions authorizing such bonds. Nothing contained in this Section**  
24           **shall be so construed as to prevent the execution of leases or agreements by the**  
25           **district providing for the lease of properties of the district or the sale of commodities**  
26           **and services sold or rendered by the district at fixed rentals or prices for a term of**  
27           **years, provided that the rentals or prices so named are at the time of the execution**  
28           **of any such lease or agreement, together with the other reasonably anticipated**  
29           **revenues of the district, sufficient to assure the ability of the district to carry out the**

1 requirements of this Chapter and the requirements of the resolution or resolutions  
2 authorizing its bonds.

3 (8) Such bonds, certificates of indebtedness, notes, or other evidence of debt  
4 shall have all the qualities of negotiable instruments under the commercial laws of  
5 the state of Louisiana.

6 §4550.8. Contesting validity of bonds; contracts

7 Bonds and any other evidences of indebtedness of the district shall be issued,  
8 sold, and delivered in accordance with the terms and provisions of a resolution  
9 adopted by the board. For a period of thirty days from the date of publication of any  
10 resolution or ordinance authorizing the issuance of any bonds, certificates of  
11 indebtedness, notes, or other evidence of debt of the district, any interested person  
12 may contest the legality of such resolution or ordinance and the validity of such  
13 bonds, certificates of indebtedness, notes, or other evidence of debt issued or  
14 proposed to be issued thereunder and the security of their payment, after which time  
15 no one shall have any cause of action to contest the legality of said resolution or  
16 ordinance or to draw in question the legality of said bonds, certificates of  
17 indebtedness, notes, or other evidence of debt, the security therefor, or the debts  
18 represented thereby for any cause whatever, and it shall be conclusively presumed  
19 that every legal requirement has been complied with, and no court shall have  
20 authority to inquire into such matters after the lapse of thirty days.

21 §4550.9. Acquisition of lands, servitudes, and rights-of-way

22 A. There is expressly conferred upon the district, the right to acquire lands,  
23 servitudes, and rights-of-way in St. Mary Parish solely for the purpose of generating  
24 or transmitting hydroelectric power by purchase, exchange, expropriation, or  
25 otherwise.

26 B. Should the district acquire the ownership of any timber it may sell the  
27 same in the following manner:

28 (1) The district shall offer the timber for sale at public auction after having  
29 first given public notice of such sale in the manner provided by law.

1           (2) If no satisfactory bid is received, the district may sell the timber at  
2           private sale to any purchaser for any amount greater than the amount offered by the  
3           highest bidder at the public auction.

4           §4550.10. Budget; administrative costs; revenues

5           A. The district shall develop and adopt an initial five-year projected  
6           administrative budget. The district shall thereafter develop and adopt an annual  
7           budget for administrative costs based upon a baseline established by the projected  
8           budget.

9           B.(1) Beginning the first year in which the district develops and adopts an  
10          annual budget for administrative costs, at least ninety percent of all revenues earned  
11          by the district shall be used to provide hurricane protection for electrical  
12          transmission and distribution in St. Mary Parish. The goal of any such protection  
13          shall be to increase the resiliency of electrical transmission and distribution systems.

14          (2) The district may enter into a cooperative endeavor agreement for such  
15          purpose with any electrical system providing services in St. Mary Parish regardless  
16          of whether any such system is privately owned, publicly owned, or part of a  
17          cooperative.

18          (3) Beginning the first year in which the district develops and adopts an  
19          annual budget for administrative costs and each year thereafter, no more than ten  
20          percent of the revenues earned by the district shall be used for administrative costs.

21          §4550.11. Conflicts; approval of projects

22          All actions or activities taken pursuant to this Chapter shall be taken or  
23          implemented only to the extent such actions or activities are not in conflict with and  
24          are consistent with the Atchafalaya Basin Master Plan or Annual Basin Plan and the  
25          Coastal Protection and Restoration Authority's Master Plan for coastal protection and  
26          restoration for a sustainable coast. Furthermore, any project authorized by the  
27          district which may impact water flow or water levels within the Atchafalaya Basin,  
28          as defined by R.S. 30:2000.2, or through Wax Lake Outlet or the Atchafalaya River

1        shall be approved in advance by the Atchafalaya Basin Research and Promotion  
2        Board and the Coastal Protection and Restoration Authority.

3        §4550.12. Chapter as complete authority; audits and reports; construction of  
4        Chapter

5        A. This Chapter shall be full, complete, and independent authority for the  
6        performance of all acts authorized by this Chapter, and no other statute or legislative  
7        act shall be construed to be applicable to the carrying out of the powers granted by  
8        this Chapter unless expressly made applicable.

9        B.(1) A complete book of accounts shall be kept by the district. Within one  
10       hundred eighty days after the close of each fiscal year, the account books and records  
11       of the district and of the depository of the district shall be audited by the legislative  
12       auditor, or a certified public accountant, in such manner as to enable him to report  
13       to the legislature as to the manner and purpose of the expenditure of all funds of the  
14       district, and a report thereon shall be submitted at the first regular meeting of the  
15       board held following the audit.

16       (2) Two copies of the report shall be filed in the office of the district; one  
17       copy of the report shall be filed with the legislative auditor. All copies shall be open  
18       to public inspection.

19       C. This Chapter is intended to carry out a function of the state to protect the  
20       health and welfare of the inhabitants of the portion of the state to be affected by this  
21       Chapter and shall be liberally construed by the courts to effect its purposes.

22       Section 2. This Act shall become effective upon signature by the governor or, if not  
23 signed by the governor, upon expiration of the time for bills to become law without signature  
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
26 effective on the day following such approval.

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 DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Sam Jones

HB No. 277

**Abstract:** Creates the St. Mary Hydroelectric Authority as a political subdivision in St. Mary Parish and provides for the governance and powers and duties of the district. Provides for district funding.

Proposed law creates the St. Mary Hydroelectric Authority as a political subdivision of the state, to be comprised of all of the territory in St. Mary Parish lying within the watershed of the Wax Lake Outlet and the Atchafalaya River and their tributaries. The district shall be domiciled in St. Mary Parish.

Proposed law provides that the district shall be governed by a board of 11 commissioners composed as follows:

- (1) The state representative who represents House District No. 50, or his designee.
- (2) The state representative who represents House District No. 51, or his designee.
- (3) The state senator who represents Senate District No. 21, or his designee.
- (4) Two members appointed by the president of St. Mary Parish, subject to the approval of the parish governing authority.
- (5) One member appointed by the mayor of the town of Baldwin, subject to the approval of the municipal governing authority.
- (6) One member appointed by the mayor of the town of Berwick, subject to the approval of the municipal governing authority.
- (7) One member appointed by the mayor of the city of Franklin, subject to the approval of the municipal governing authority.
- (8) One member appointed by the mayor of the city of Morgan City, subject to the approval of the municipal governing authority.
- (9) One member appointed by the mayor of the city of Patterson, subject to the approval of the municipal governing authority.
- (10) One member appointed by the chief of the sovereign nation of the Chitimacha Tribe of La., subject to the approval of the tribal council, or one member appointed pursuant to any method determined by the tribal council.

Requires appointed members to serve four-year staggered terms. Provides that elected officials shall serve during their term of office. Provides that a designee shall serve at the pleasure of the designating authority. Provides for reimbursement of expenses of board members. Otherwise provides members serve without compensation.

Provides for a chairman, vice chairman, and other officers elected by the board from its membership. Provides for a secretary, treasurer, or secretary-treasurer who shall not be board members and authorizes the board to fix their compensation. Authorizes the board to hire employees, including engineers and attorneys and a general manager.

Proposed law provides that the district shall be an agency and instrumentality of the state required by the public convenience and necessity for the carrying out of the functions of the state, and shall be a corporation and body politic and corporate, with power of perpetual succession, invested with all powers, privileges, rights, and immunities conferred by law upon other corporations of like character, including but not limited to port authorities, port commissions, and port, harbor, and terminal districts within the state.

Proposed law provides that the district shall not have the power to levy taxes, but it may assess and collect charges, fees, and rentals for the use of its properties and facilities and for the construction, installation, maintenance, and operation of such properties or facilities owned by it or in which it has an interest only for the purpose of and directly related to generating or transmitting hydroelectric power.

Proposed law provides that the district and its operating income shall be exempt from taxation within the state. Additionally provides that any bonds issued pursuant to proposed law and their transfer and income therefrom shall be exempt from taxation within state.

Proposed law provides that the district is not an instrumentality of the state for purposes of the state civil service provisions of the state constitution.

Proposed law limits that district's power, authority, and jurisdiction to the geographical boundaries of St. Mary Parish. Requires that all of the district's actions be solely for the purpose of generating or transmitting hydroelectric power. Provides for the powers and duties of the district, including but not limited to the following:

- (1) To have a corporate seal.
- (2) To acquire, hold, pledge, encumber, lease, and dispose of real and personal property within its territorial jurisdiction.
- (3) To enter contracts, conveyances, mortgages, deeds or trusts, bonds, and leases.
- (4) To let contracts for construction or acquisition of property and facilities.
- (5) To incur debts and borrow money, but no debt so incurred shall be payable from any source other than the revenues to be derived by the district from sources other than taxation.
- (6) To fix, maintain, collect, and revise rates, charges, and rentals for the facilities of the district and the services rendered thereby, including but not limited to all charges for services and goods provided by or through the Wax Lake Outlet and the Atchafalaya River.
- (7) To enter into agreements of any nature for the operation of all or any part of the properties and facilities of the district.
- (8) To control in order to utilize and distribute the waters of the rivers and streams of the Wax Lake Outlet and the Atchafalaya River watershed, including but not limited to all waters flowing through the Wax Lake Outlet and the Atchafalaya River. Provides for the district to provide for the use and regulation of such waters, to preserve the rights of people in the watershed in beneficial use of the waters, to provide for equitable distribution of waters for potential uses. Specifies that the district shall not construct, own, or lease any electric transmission or distribution lines.
- (9) To utilize the waters of the Wax Lake Outlet and the Atchafalaya River for the generation of electric power, to sell the use of the water of such waterways for the production of electric power, to provide or furnish power and to that end to construct,

maintain, operate, or lease any or all hydroelectric generating facilities within its territorial jurisdiction useful for such purpose.

(10) To purchase or construct facilities and to purchase or otherwise acquire property.

(11) To enter into contracts for sale and use of hydroelectricity.

Proposed law provides that it does not intend to restrict use of water from the Wax Lake Outlet or Atchafalaya River or outside of St. Mary Parish except for hydroelectric power generation. Provides that the utility shall not pay the district for power it is prevented from generating.

Proposed law grants the district such authority and power to control and regulate the waters of the Wax Lake Outlet and the Atchafalaya River and its tributaries as may be exercised by the state, subject to the constitution.

Proposed law authorizes the board to cooperate with the U.S. government and to contribute financially to the expense of such improvement projects as are or may be authorized or adopted by the U.S. Further authorizes the district to cooperate with all agencies, departments, and subdivisions of the state in all undertakings, the purpose of which will be the furtherance of the objects and purposes for which the district is created. Confers upon the state, its departments, agencies, and political subdivisions the authority to make contributions or grants to the district and to enter into contracts or agreements for any purposes of proposed law.

Proposed law authorizes the district to locate, construct, operate, and maintain any of its works or facilities over, under, through, in, or along any of the lands which are the property of the state, its subdivisions or instrumentalities pursuant to a cooperative endeavor agreement between the district and the appropriate state entity. Further authorizes the district and its authorized agents and employees to enter upon any lands, waters, and premises in the state for certain purposes. Requires the district to make reimbursement for actual damages resulting from entering upon any lands, waters, and premises in the state.

Proposed law provides that for the purpose of providing funds for the acquisition of any property or facilities which the district is authorized to acquire, including the acquisition of water rights, and for extending and improving any such property and facilities, the district may from time to time incur debt and issue revenue bonds. Authorizes refunding bonds, certificates of indebtedness, and other debt. Provides further with respect to such bonds.

Proposed law grants the district the right to acquire lands, servitudes, and rights-of-way in St. Mary Parish solely for the purpose of generating or transmitting hydroelectric power by purchase, exchange, expropriation, or otherwise. Provides for sale of any timber the district may acquire.

Proposed law requires that the district develop and adopt an initial five-year projected administrative budget and to thereafter develop and adopt an annual budget for administrative costs based upon a baseline established by the projected budget.

Proposed law requires the district, beginning the first year in which the district adopts an annual budget for administrative costs, to use at least 90% of its revenues to provide hurricane protection for electrical transmission and distribution in St. Mary Parish. Authorizes the district to enter into a cooperative endeavor agreement for such purpose with any electrical system providing services in St. Mary Parish. Provides that no more than 10% of revenues earned by the district shall be used for administrative costs after the initial five-year period.

Proposed law requires that all actions taken by the district be implemented only to the extent they are not in conflict with and are consistent with the Atchafalaya Basin Master Plan or

Annual Basin Plan and the Coastal Protection and Restoration Authority's Master Plan for coastal protection and restoration for a sustainable coast.

Proposed law requires the district to keep a complete book of accounts. Requires, within 180 days after the close of each fiscal year, that the account books and records of the district and of the district's depository be audited by the legislative auditor, or a CPA, in such manner as to enable him to report to the legislature as to the manner and purpose of the expenditure of all funds of the district. Requires that two copies of the report be filed in the office of the district, one filed with the legislative auditor.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 33:4550.1-4550.12)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Municipal, Parochial and Cultural Affairs to the original bill.

1. Added a provision that limits the authority granted to the district to assess and collect charges, fees, and rentals for the use of its properties to purposes directly related to generating or transmitting hydroelectric power.
2. Added a provision that limits the district's power, authority, and jurisdiction to the geographical boundaries of the parish of St. Mary. Added a provision that requires that all of the district's actions be for the sole purpose of generating or transmitting hydroelectric power.
3. Removed a provision that authorizes the district to do all things necessary or convenient to carry out its functions.
4. Added provisions that expand the authority granted to the district to provide for the equitable distribution of waters for potential uses to include maritime and port purposes.
5. Added a provision that prohibits the district from installing any structures or facilities other than for hydroelectric purposes.
6. Removed provisions that require that all plans and works provided by the district have the primary regard to the necessary and potential needs for water. Removed provisions that authorize the district to provide for the use of waters for commercial and industrial enterprises and for the use of waters for the development and distribution of hydroelectric power.
7. Added a provision that proposed law does not intend to restrict use of water outside of St. Mary Parish except for hydroelectric power generation. Added a provision to clarify that the that the utility shall not pay the district for power it is prevented from generating if the district restricts the use of water within the parish for electric generation.
8. Added the requirement that the district enter into a cooperative endeavor agreement with the appropriate state entity prior to locating, constructing, operating, and maintaining any of its works or facilities on state property. Removed the provisions that authorize the district to locate, construct, operate, and maintain its works and facilities on state property without obtaining consents, licenses, or permits.

9. Removed provisions that the entry upon any lands, waters, and premises in the state by the district or its authorized agents shall not be deemed a trespass or an entry under any expropriation proceedings if the district gives prior notice to the property owner.
10. Removed provisions that grant the district the right to use all waters and to possess all water rights in the waters of the Wax Lake Outlet and the Atchafalaya River and its tributaries necessary for district purposes.
11. Added a provision that limits the rights granted to the district to acquire lands, servitudes, and rights-of-way. Provided that such rights shall be exercised only within St. Mary Parish and shall be solely for the purpose of generating or transmitting hydroelectric power.
12. Removed minimizing damage to critical infrastructure as a goal of hurricane protection efforts of the district. Also removed provisions that such hurricane protection shall be considered a public purpose.
13. Removed provisions that no publication of any notice or proceeding is necessary except as provided in proposed law. Also removed provisions that the proceedings adopted by the district's board shall not be subject to referendum or any election requirement.